

Call to Order:

The meeting was called to order at 7:32 p.m. Present were Chair, Joan Duff, members Vincent Chiozzi, Jay Doherty, Eric Macaux, Lelani Loder and associate member Zach Bergeron; also present were Paul Materazzo, Director of Planning and Lisa Schwarz, Senior Planner.

Scope of Work - Town Park Master Plan:

Ms. Duff opened the public meeting on the Scope of Work for the Town Park Master Plan. She informed the audience that the Town Manager requested the Planning Board go through this process to create a Master Plan for the Park as a resource for the Board of Selectmen. Lisa Schwarz, Senior Planner gave a summary of the results of the SWOT analysis conducted at a prior meeting identifying the strengths, weaknesses, opportunities and threats in the Park, Playstead, and surrounding municipal holdings.

John Pasquale of 47 Whittier Street informed the Board that he cleans the Park at 5AM every day. He sees a strength of the Park is that it is a revenue generator from the functions that it hosts. A weakness is that teens gather there to smoke marijuana and drugs are being pushed. An opportunity would be for the Park to be a smoke free environment, which would take care of a lot of the trash. He would also like to see a waterfall or a fountain with ducks or small sailboats for children, and at the entrance, a rotunda with benches around it would be welcoming. The cannon is a threat because children climb on it could be a great liability if one was to be injured. Another opportunity would be to eliminate the bridge because it has no purpose and just another hangout. He stated that there is a lot of history in the Park and a place like a circular area would be nice where you could capture that history to teach people about the Town.

Bernice Downs of 147 Elm Street stated that she and her husband were both born and raised in Andover. They love the Park and would like it to be left alone. Andover is losing all of its green space especially with the construction of the Youth Center. She has a postcard from 1872 of the Park. Ms. Schwarz and Ms. Duff both stated that they would love to get a copy of that postcard.

Nancy Jeton of 57 Chestnut Street expressed concern about the aging trees and would welcome a landscaping Master Plan. A weakness is the randomly placed improvements that deaden the Park. It is worth considering that a large part of this small park is now suppressed for use because no one will play near the memorials. She likes the bridge and thinks it is charming aspect of the Park and would not like to see it removed.

Ms. Schwarz reviewed an extensive chronology of the Park, Playstead and surrounding areas gathered from residents and Town employees. The chronology began in 1850 with an original donation of \$50,000 from Benjamin Punchard for a free high school for all residents. The Park was originally a cow pasture with a brook running through it. The area has been the location of various Andover public schools over the years. The Town's current schools have all been in place since 1982. The Town Offices moved to its current location in 1984. In the 2000s the Town rededicated the cannon and added the war memorials. Ms. Schwarz stated that what she has learned is that the Park today as it is used by many generation, has never been better.

Ann Grecoe of 49 Whittier Street stated that she doesn't want the Park to change. A playground would require fencing which would take away from the Park, and she thinks one would be better

Scope of Work - Town Park Master Plan (cont'd):

suited near the Youth Center. She would not like the cannon removed because climbing on it is a rite of passage for kids in Town. If a parent is afraid their child will be hurt, they should not let them on the cannon. Mr. Pasquale clarified that he doesn't want the cannon removed; he just wants signage or a fence around it, and Ms. Grecoe agreed that a sign would be fine.

Ms. Schwarz stated that no one is talking about removing the cannon; this is more about what the Town can do to make the area better. She asked Ms. Grecoe why she thought a fence would be needed around a playground. Ms. Grecoe stated because of the high traffic in the area. Mr. Bergeron pointed out that kids play there every day already without a fence. Ms. Schwarz added that the Park is over 4 acres so it is a pretty big area. Ms. Grecoe reiterated that she doesn't want the open space to be taken away, and any playground should go next to the Youth Center so you could have all of the kids in one place. Ms. Duff agreed that it is a big area and there are plenty of options for where to put a playground.

JoAnn Deso of 81 High Street stated the Park is a common. She wouldn't want to see fencing or anything visually disturbing at the Park; it should remain open space. There are already several children's parks in the area at lower Shawsheen.

Cal Deyermond of 2 Tanglewood Way South stated that he grew up on Memorial Circle and spent his entire childhood at the Park and the Playstead. It was always an unwritten rule you do not play games in the Park; it was a gathering spot in Town and you played at the Playstead. The Park has functioned as is for over 100 years. New people coming in to Town are reaping the benefits of the roots and integrity of the Town's history. As a former police officer, he knows that this is a bad location and a legitimate safety issue. A better option and something that the Patriotic Holiday Committee could get behind is a playground in the Playstead. This whole thing is being promulgated by one group who want a playground in the Park. They set up a booth at Andover Day and handed out literature trying to get people signed up behind the movement.

Ms. Schwarz added that process also began because of the debate sparked by the Korean War Memorial, the Youth Center placement, the changes at Doherty School. This is also thinking for the future, 20-30 years out. Sometimes the Selectmen are given a proposal with no input, so this is a vetting process. This is an effort to include the public in the process instead of a decision just being made.

Michael Burke, Director of Veterans Services stated that he has had overwhelming contact with his office from people who are uncomfortable with a playground going in the Park. They are supportive of one at the Playstead because many veterans grew up playing there.

Mrs. Downs acknowledged that there is a playground missing in the center of Town, but parking is not available at the Park. If they have to drive to the playground at the center of Town, they could drive anywhere for a playground.

Mr. Pasquale stated that not everyone who uses the Park is from Andover. If you start putting swings in the Park it will not just be used by Andover residents.

Scope of Work - Town Park Master Plan (cont'd):

It should be noted that Mr. Doherty left the room after the discussion on the Park.

The Legends:

Ms. Duff opened the public meeting for a request for minor modification at The Legends. Doug Lees of Land Engineering and Environmental Services, representing the applicant informed the Board that he is requesting a minor modification for The Legends Phase 1 to eliminate one unit at Building 5 from 4 units to 3. In the construction process it became apparent that the buildings don't fit as nicely as hoped which is why they would prefer to eliminate a unit and change the size of the building. Mr. Materazzo stated that there were no comments from staff regarding this change.

Ms. Loder asked if they are adding a condition with the water lines. Mr. Lees stated that DPW had a comment on the 2 inch water service coming off of the 4 inch fire service; they would prefer two separate water services. He has made the correction on the sewer connection plan that he submitted to the Board of Health.

On a motion from Mr. Macaux seconded by Ms. Loder the Board determined that the request submitted by CA Investment Trust is a minor modification because it does not change the scope and nature of the original permit and cause the project to be non-compliant with the Zoning By-Law. **Vote:** Unanimous (5-0).

On a motion by Mr. Macaux seconded by Ms. Loder the Board moved to approve the modification for elimination of one unit at Building 5 as shown on the plans titled "Minor Modification Plan The Legends Phase I" last revised August 26, 2013. With the condition that two separate water lines with shut off and gate valves are shown on the Sewer Connection plans submitted to the Board of Health and DPW prior to getting a building permit and with all other conditions of approval for SP06-07 and SP09-10 in full force and affect. **Vote:** Unanimous (5-0).

It should be noted that Mr. Doherty returned to the room after the discussion on The Legends.

Ferry Crossing:

Ms. Duff opened the public hearings on an application by 289 River Road LLC for a Definitive Subdivision Plan, a Special Permit for Cluster Development and a Special Permit for Earth Movement for Ferry Crossing, a proposed subdivision located at 289 River Road. Ms. Duff stated that that the applicant had submitted a written request to continue the hearing without discussion.

On a motion by Ms. Loder, seconded by Mr. Bergeron, the Board moved to continue the public hearings for Ferry Crossing a Definitive Subdivision, Special Permit for Cluster Development and Special Permit for Earth Movement without discussion to October 8th at 7:15 pm. **Vote:** Unanimous (5-0).

Other Planning Related Topics:

Mr. Materazzo gave an overview of ongoing Planning initiatives.

MassBike will be giving a presentation on October 22nd at the Public Safety Center at 7PM. The Planning Board Meeting will not start until 8PM that night. The Merrimack Valley Planning Commission, DPW and the Public Safety Officer are looking to expand biking opportunities in Town, both on roadways and open space areas. An initial phase of implementation has been started by moving fog lines to make a bike lane for those cycling today. They will be looking for public input to put together a Master Plan for further implementation.

On November 20th at 7PM in the School Committee Room, the Economic Development Council is coordinating a presentation on Andover Economic Development. Barry Bluestone of Northeastern University, a leading economic forecaster in the State will give a presentation focusing on where the Town is going economically and strategies to advance forward and remain economically competitive. There will be a panel discussion with Mr. Bluestone, as well as a major employer in Town and a member of the school department who will discuss how economic development affects their entities.

Mr. Materazzo stated that he and Joan Duff will be meeting with the new Chair of the Zoning to try to expand the Planning Board's relationship with them. Often times the Planning Board moves forward with zoning amendments and the Zoning Board comes into it at the back end trying to add comments or tweaks. Mr. Materazzo would like to see the two Boards come together more on joint initiatives. He would also like to see a more streamlined process and examine if either Board should give up certain powers or authority to the other or to the Board of Selectmen, which would then be brought forth to Town Meeting.

Mr. Materazzo stated that the solar project on South Street is progressing. The racking systems are up and solar panels will be installed shortly. He is working with the vocational technical school to do a hands-on training with the students. There will also be tours for local officials once panels are installed. When everything is up and running, discussions will start on electric charging stations for the downtown.

It should be noted that Ms. Duff left the meeting after the discussion of other business.

Reynolds Street:

Mr. Chiozzi opened the public meeting on a request for minor modification to a previously approved subdivision known as Reynolds Street. Mr. Materazzo informed the Board that he received a request from the developer for a minor modification to the Reynolds Street Subdivision. Bill Johnson the developer asked the Board to reaffirm the vote that they made at the August 13th meeting on a request by an abutter to keep the pavement in place. He stated that the intent of the Board in 2005 was to avoid headlight glare into the home across Andover Street as vehicles exited the development.

Mr. Bergeron stated that at the previous meeting, two items were discussed, the pavement location and the driveway connections. Mr. Materazzo informed the Board that they are only discussing tonight if the pavement remaining in the center of the right of way is a minor

Reynolds Street (cont'd):

modification, and if so, if the Board would allow it to stay in place. In researching the file, there was clear intent by the Board in 2005 to try to safeguard Mr. Casper's property from glare of headlights.

Dan Casper of 232 Andover Street stated that the Board approved specific plans and Mr. Johnson, the developer intentionally and knowingly put the pavement in the wrong place. He stated he had a meeting with Mr. Johnson and his attorney after the driveway was put in and Mr. Johnson acknowledged that he put that pavement in the wrong place and that he intended to get a minor modification. Mr. Casper does not care if the driveway is moved, but what does matter to him is that Mr. Johnson does not abide by the rules. He has been working at the property outside the approved hours, and no regulations have been enforced by the Town. He would like to see the Town enforce the rules and regulations and have Mr. Johnson do what he is supposed to do.

Ms. Loder asked if the Board had determined that the original approval had a scrivener's error that read eastern border instead of western border. Mr. Materazzo stated that it is something for the Board to decide, but to situate the pavement as stated in the approval would put headlights right into Mr. Casper's bay window. If the headlights into his windows are not an issue for him, the Board can determine if they want the rules to be followed or not. Mr. Casper added that he does not want the suggestion to be that anything was done for him.

Mr. Johnson stated that Mr. Casper statements were not true. Ms. Loder informed him that getting into the history of the whole development is irrelevant to what is before them. Mr. Materazzo stated that Mr. Casper and anyone else who is concerned about enforcement should call him and he will follow up on it with the Inspector of Buildings. He went on to state that the Board can consider a minor modification if such change does not detract from the intent of the Board's original condition or restriction. In reading the file, the intent was to safeguard neighbors against the glare of headlights. Ripping up the driveway and moving it is not in harmony with the Board's decision. Mr. Macaux added that they had a condition and plans that did not match up and something had to be done to fix it.

Jim Lyons of 12 High Vale Lane passed out an as-built drawing to the Board. He stated that while the appeal of the January 2005 approval was taking place, Mr. Johnson sought a building permit for the Stier lot. The Inspector of Buildings gave conditions for approval for a building permit for the Stier lot. The 40 ft right of way of Reynolds Street was approved as a driveway. The Stier lot sewer connection plan shows a street connecting to Anderson Avenue which is not in the Planning Board approval. A memo from Steve Colyer dated August 2004 mentions that if a full subdivision street is proposed, then the DPW would have many comments. In an affidavit to Land Court signed by Mr. Johnson's attorney, the "driveway" is referred to as Reynolds Street and states that both Reynolds Street and Anderson Avenue have been constructed and provide adequate frontage and access to the Stier lot. The original conditions state that no other driveways may be connected to the paved roadway or may any other lots or properties use the paved roadway. The Board should consider the rights of others.

Reynolds Street (cont'd):

Mr. Materazzo reiterated that the only thing before the Board that would be discussed was the paved roadway. Mr. Macaux stated that he thought a series of discussions needed to be had on compliance. Ms. Loder added that the Planning Board does not enforce the compliance.

Mr. Chiozzi asked if the current width of the pavement complies with the original approval. Mr. Materazzo answered that what is on the approved plan mirrors what is in the field except for the dogleg that comes down Anderson. Mr. Chiozzi asked if the plan shows the width of the pavement at 18 ft and Mr. Materazzo answered that it does. Mr. Chiozzi stated that if the pavement had been two feet from the eastern side the center of the roadway, the center of the pavement would have been 11 ft from the eastern property line, so the difference is 9 feet.

Mr. Lyons informed the Board he filed a complaint with the court because this should be a major modification. Mr. Lyons read from the minutes of a meeting in 2010 in which the Board voted that the pavement was a major modification. He requested the Board to vote that this is a major modification or take no action and let the Court decide. He also stated that when Mr. Johnson connected Reynolds Street to Anderson Avenue he opened up everyone's rights in the roadway.

Mr. Doherty stated that paper streets have been a big issue in the past and the Planning Board historically did not want to open them up and finger off to other subdivisions. He wanted to know if that is what they are doing here tonight. Mr. Materazzo reiterated that the only question for the Board today is the pavement location. Another meeting can be scheduled for all other issues involved in this development. The approved plan shows the pavement at the centerline of the roadway and the conditions call for it to be two feet from the easterly edge. Mr. Macaux asked if the conditions that were approved in 2005 are held, will it create the problem they were trying to avoid. Mr. Chiozzi stated that there must have been a reason why Mr. Colyer the Planning Director was so specific in the condition regarding the placement of the pavement. Mr. Materazzo stated that the Board should determine the intention of the Board in 2005.

Bernadette Lyons of 12 High Vale Lane stated that Mr. Colyer was very specific and she doesn't even remember the mention of headlights in 2005. Mr. Johnson did a specific thing for the lot that was not approved, and she feels that if the Board states that it is okay for him to not follow the plan, then it shows that no one has to follow the rules. Mr. Materazzo stated that the addition of the dog leg of pavement is a discussion to be had at another time with the Board.

Mr. Lyons stated that the dog leg is a clear violation. The approval is limited to one lot and one driveway, and Mr. Colyer went to great lengths to limit it. To suggest that this is not a major modification is unfair to the people in the neighborhood. The developer doesn't own or have any rights in the roadway so he shouldn't be able to rip it up. The Board needs to force the developer to follow the law. Mr. Bergeron stated that what Mr. Lyons is requesting is not what is before the Board, but it is something that will come before the Board at another time. Mr. Macaux added that compliance needs to be dealt with directly.

John McIntyre of 231 Andover Street, a direct abutter to the roadway stated that the driveway centered in the roadway is aesthetically pleasing and meets the needs of the direct abutters on either side. Keeping the pavement in place is the right thing for his family and the Murphys, the

Reynolds Street (cont'd):

other direct abutters. He clarified for the Board that he and the Murphys do not own the right of way or pay taxes on it, they have rights of ownership in the roadway to make decisions about it. He and the Murphys have to live with how that roadway is laid out day after day and they have the right for the layout to be pleasing to them. Mr. Materazzo pointed out Mr. McIntyre's property on a map for the Board. Ms. Loder noted that the McIntyres and Murphys on either side of the roadway and Mr. Casper across the street all seem to be okay with the current placement of pavement.

Chris Murphy of 233 Andover Street, a direct abutter to Reynolds Street stated that he fears that if the Board finds that this is a major modification, the roadway can be built tomorrow closer to his home. He would like the roadway to remain in the center to be neighborly to Mr. Casper and keep the lights out of his window, but also for his own convenience, not Mr. Johnson's convenience. He believes that this is a minor modification because a major modification would be moving the placement of the easement not just the pavement. In the research his wife has done on easements, he believes that as an abutter to that easement, he owns to the center line. As an owner of the private way, no one can tell him that he can't use it, and he would like a say in the roadway placement. As an engineer he knows the importance of having all language in the conditions and plans to match, so he would like the change to the conditions to match the plans. Mr. Lyons stated that the law is very clear that alterations to a roadway are a major modification.

Mr. Chiozzi asked if Tom Urbelis, Town Counsel, has an opinion or if the law is very clear on a major or minor modification. Mr. Materazzo stated that Mr. Urbelis is aware of this issue. Mr. Chiozzi asked if there were guidelines available on minor and major modifications. Mr. Materazzo stated that if they were changing the layout of the road, the lots or the lot configuration it would cause a different discussion. Town Counsel has not opined either way and the Board has to look at each request for their own merits. Mr. Macaux stated that there is probably case law that Town Counsel could provide but this situation is not a novelty. Ms. Loder noted that earlier in the evening the Board approved a minor modification that was a lot more complicated.

Mr. Lyons asked if this was affirmed as a minor modification if he would have to file a new appeal, and he was told that he would. Mr. Materazzo added that request tonight was brought forth because the Town Counsel asked the developer to bring the minor modification to the Board himself with notice going out to abutters for this particular discussion, which is not required to be done for minor modifications.

On a motion by Mr. Bergeron seconded by Ms. Loder the Board moved that the requests submitted to maintain the pavement in the center of the right of way is a minor modification because it does not detract from the intent of the condition. **Vote:** Unanimous (5-0).

On a motion by Mr. Bergeron seconded by Ms. Loder the Board moved to recommend approval of the minor modification to the Reynolds Street Subdivision Condition #5, to allow the pavement to be centered in the right of way. **Vote:** Unanimous (5-0).

Reynolds Street (cont'd):

Mr. Materazzo noted that notification will be sent out to abutters for any future meetings to discuss other issues related to this development.

Adjournment: The meeting was adjourned at 9:48 p.m.